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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,587	07/22/2003	Roy Ramirez JR.	6731.003	7527
7590 12/14/2004			EXAMINER	
Dunlap, Coddling & Rogers, P.C.			POPE, DARYL C	
P.O. Box 16370			ART UNIT	
Oklahoma City, OK 73113			PAPER NUMBER	
			2632	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/624,587

Applicant(s)

RAMIREZ, ROY

Examiner

DARYL C POPE

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/22/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,4,8, and 10-11 of U.S. Patent No. 6,597,283('283). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

-- Claim 1 substantially corresponds to subject matter in claim 1 of ('283), and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to superimpose outer layer of flexible material on the inner layer, and as well to add or remove the at least one layer of flexible tear resistant material interposed between the first and second conductor plates as desired, since superimposing the outer layer on the inner layer would have ensured proper positioning of the layers in relation to each other, and as well removal of the flexible tear resistant material would have reduce cost and weight for the materials in the system.

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-- Claim 2 substantially corresponds to the subject matter in claim 8 of ('283) and as well is obvious for the reasons as discussed in claim 1 above.

-- Claim 3 substantially corresponds to the subject matter in claim 1 of ('283) and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to superimpose the outer layer of flexible material on the inner layer since superimposing the outer later on the inner layer would have ensured proper positioning of the layers in relation to each other.

-- Claim 4 substantially corresponds to the subject matter in claims 1 and 3 of ('283).

-- Claim 5 substantially corresponds to the subject matter in claim 4 of ('283).

-- Claim 6 corresponds to the subject matter in claim 8 of ('283), and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the alarm assembly, since this would have reduced the cost and circuit complexity for the protective cover.

-- Claims 7,8, and 9 substantially correspond to the subject matter in claims 8,10, and 11, respectively, of ('283).

**ART REJECTION:**

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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**4. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Windpassenger et al(6,302,471).**

-- In considering **claim 6**, the claimed subject matter that is met by Windpassinger et al(Windpassinger) includes:

1) the articulating frame, and flexible cover is met by the folding frame and cover of as seen in figure 1;

2) the outer layer, inner layer, and flexible tear resistant material between in outer and inner layers is met by the cover(21) with outer lamina, inner textile lamina, and an intermediate lamina of rubber(see: column 2, lines 61 et seq).

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C POPE whose telephone number is (571) 272-2959. The examiner can normally be reached on M-TH 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL WU can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

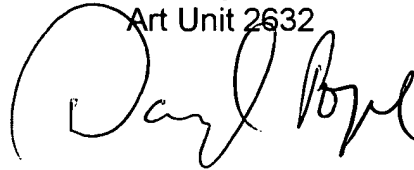
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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daryl C. Pope

Dec. 12, 2004

DARYL C POPE  
Primary Examiner  
Art Unit 2632

A handwritten signature in black ink, appearing to read "Daryl C. Pope", is written over the printed name and title.